

and management of such business during the preceding four years. Such records shall include the number and location of all branches or additional business facilities operated by or for the commission merchant, dealer or broker. In the case of a corporation, such records shall include the corporate charter, record of stock subscription and stock issued, the amounts paid in for stock and minutes of stockholders' and directors' meetings showing the election of directors and officers, resignations and other pertinent corporate actions. In the case of a partnership, the records shall contain a copy of the partnership agreement showing the type of partnership, the full names and addresses of all partners including general, special or limited partners, the partnership interest of each individual and any other pertinent records of the partnership.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979]

**§ 46.15 Documents to be preserved.**

Bills of lading, diversion orders, paid freight and other bills, car manifests, express receipts, confirmations and memorandums of sales, letter and wire correspondence, inspection certificates, invoices on purchases, receiving records, sales tickets, copies of statements (bills) of sales to customers, accounts of sales, papers relating to loss and damage claims against carriers, records as to reconditioning, shrinkage and dumping, daily inventories by lots, a consolidated record of all rebates and allowances made or received in connection with shipments handled for the account of another, an itemized daily record of cash receipts, ledger records in which purchases and sales can be verified, and all other pertinent papers relating to the shipment, handling, delivery, and sale of each lot of produce shall be preserved for a period of 2 years.

**§ 46.16 Method of preservation or storage of records.**

All records required to be preserved under the Act shall be stored in an orderly manner and in keeping with sound business practices. The records being currently used shall be filed in order of dates, by serial numbers, al-

phabetically or by any other proper method which will enable the licensee to promptly locate and produce the records. Records in dead storage should be arranged in an orderly fashion, be packaged or wrapped to insure proper preservation, be adequately marked or identified, and stored in a safe, dry location. When part of the records are forwarded to others (such as accountants, traffic agencies, attorneys, etc.), proper notations should be filed in appropriate places in the records identifying the missing records and stating where they can be located.

**§ 46.17 Inspection of records.**

(a) Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of USDA to enter its place of business and inspect such accounts, records, and memoranda as may be material:

(1) In the investigation of complaints under the Act, including any petition, written notification, or complaint under section 6 of the Act,

(2) To the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections,

(3) To ascertain whether there is compliance with section 9 of the Act,

(4) In administering the licensing and bonding provisions of the Act,

(5) If the licensee has been determined in a formal disciplinary proceeding to have violated the prompt payment provision of section 2(4) of the Act, to determine whether, at the time of the inspection, there is compliance with that section.

(b) Any necessary facilities for such inspection shall be extended to such representative by the licensee, its agents, and employees.

[62 FR 15087, Mar. 31, 1997]

RECORDS OF MARKET RECEIVERS

**§ 46.18 Record of produce received.**

Market receivers shall keep in the order of receipt a record of all produce received and this record shall be in the form of a book (preferably a bound book) with numbered pages or comparable business record. This record shall clearly show for each lot the date

of arrival and unloading; whether received by freight, express, truck, or otherwise; the car initials and number; the truck license number and the driver's name or the name of the trucking firm; the number of packages or the quantity received; the kind of produce; the name and address of the consignor or seller; whether the produce was purchased; consigned or received on joint account; and the disposition of the produce, whether jobbed or sold in carlots or trucklots, and the lot number assigned to the shipment by the receiver (as required by § 46.20).

**§ 46.19 Sales tickets.**

Sales tickets shall bear printed serial numbers running consecutively and shall be used in numerical order so far as practicable. No serial number shall be repeated within a 90-day period. The sales tickets shall be prepared and all the details of the sale shall be entered on the tickets in a legible manner in order that an audit can be readily made. Erasures, strike-outs, changes, etc., should be held to the minimum. When errors are made in preparing sales tickets, the tickets should be voided. Each sales ticket shall show the date of sale, the purchaser's name (so far as practicable), the kind, quantity, the unit price, and the total selling price of the produce. Each sales ticket shall show the lot number of the shipment if the produce is being handled on consignment or on joint account. Sales tickets on all other lots of the same commodity which are on hand at the same time shall also show a lot number. The original or a legible carbon copy of each sales ticket, including those voided or unused, shall be accounted for and shall be filed or stored either by dates of sales or in the order of the serial numbers for a period of two years.

**§ 46.20 Lot numbers.**

An identifying lot number shall be assigned to each shipment of produce to be sold on consignment or joint account or for the account of another person or firm. A lot number should be assigned to any purchased shipment in dispute between the parties to assist in proving damages. A lot number shall be assigned to each purchased shipment of

similar produce on hand at that time or received later while the consigned or joint account or disputed lot is being sold. A lot number shall be assigned to each purchased shipment which is reconditioned if the seller is to be charged with the shrinkage or loss. The lot number shall be entered on the receiving record in connection with each shipment and entered on all sales tickets identifying and segregating the sales from the various shipments on hand. The lot number shall be entered on the sales tickets by the salesmen at the time of sale or by the produce dispatcher, and not by bookkeepers or others after the sales have been made. No lot number shall be repeated within a period of 30 days after the last sale from the preceding lot to which such number was assigned.

**§ 46.21 Returns, rejections, or credit memorandums on sales.**

In the event of the rejection and return of any produce sold for or on behalf of another, on consignment, or on joint account, or of any necessary allowance or adjustment being made to the buyers thereof, a credit memorandum showing the buyer's name, sales ticket number, lot number, date of the granting of the allowance, and amount of the credit or adjustment, with reasons therefor, shall be made or a notation shall be made on the original sales ticket referring to the adjustment and showing where the credit memorandum is filed. The credit memorandum shall be on a regular form, in a ledger book, or on a sales ticket or invoice properly completed to show the facts and shall be approved by a duly authorized person. Credits granted shall be entered in the same records as the original sales tickets.

**§ 46.22 Accounting for dumped produce.**

A clear and complete record shall be maintained showing justification for dumping of produce received on joint account, on consignment, or handled for or on behalf of another person if any portion of such produce regardless of percentage cannot be sold due to poor condition or is lost through resorting or reconditioning. In addition to the foregoing, if five percent or